

REMARKS

In the Restriction Requirement mailed November 3, 2005, the Examiner restricted claims 1-32 into the following two groups:

I. "Claims 1-17 and 21-32, drawn to an expression vector, comprising a nucleic acid sequence encoding a polypeptide at least 40% identical to SEQ ID NO:1, wherein the nucleic acid encodes a protein having monooxygenase P450 activity; and to said expression vector wherein said polypeptide is a specified amino acid sequence or wherein said nucleic acid sequence is a specified nucleic acid sequence; and to a transgenic plant or plant cell or plant seed comprising said nucleic acid wherein said nucleic acid sequence is heterologous to said plant; and to a method for altering the phenotype of a plant comprising introducing said expression vector into a plant tissue under conditions such that expression of said nucleic acid sequence alters the phenotype of a plant, including said method wherein carotenoid ratios are altered, or wherein lutein is produced, . . . " (Restriction Requirement, page 2); and

II. "Claims 18-20 are drawn to an expression vector comprising a nucleic acid sequence encoding a nucleic acid product that interferes with the expression of a nucleic acid sequence encoding a polypeptide at least 40% identical to SEQ ID NO:1, and to said expression vector wherein said product that interferes is an antisense sequence, and to said expression vector wherein said product that interferes is a dsRNA that mediates RNA interference," (Restriction Requirement, pages 2-3).

Applicants herein elect, without traverse, to prosecute claims of Group I (Claims 1-8, 10-17 and 21-32). The Applicants also herein cancels Claims 9 and 18-20 in order to further their business interests and the prosecution of the present application, yet without acquiescing to the Examiner's arguments, and while preserving the right to prosecute the canceled (or similar) claims in the future.

Further, in the Restriction Requirement mailed November 3, 2005, the Examiner requested the selection of one nucleic acid or amino acid sequence from SEQ ID NOs:1-7, 16-27, 33-57. The Applicants herein elect for prosecution nucleic acid sequence SEQ ID NO:05 and amino acid SEQ ID NO:04. As this is a species election, the remaining non-elected species will be examined, should the elected species be found allowable.

CONCLUSION

As such, amended and original Claims 1-8, 10-17 and 21-32 are pending and under examination following entry of Applicants response to the outstanding Restriction Requirement. The Applicants believe that the above election of claims and sequences will allow the Examiner to proceed with a normal examination of the claims.

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Robert A. Goetz
Registration No. 55,210

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
680/218-6900